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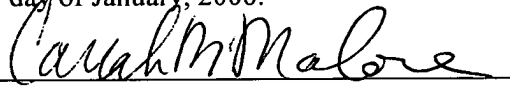
PATENT
Attorney Docket No. DPL-048

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Davis *et al.*
SERIAL NO.: 10/817,455 GROUP NO.: 3736
FILING DATE: April 1, 2004 EXAMINER: Mallari, Patricia C.
TITLE: Non-Invasive Breath Analysis Using Field Asymmetric Ion Mobility Spectrometry

CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence, and any document(s) referred to as enclosed herein, is/are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 5th day of January, 2006.


Carrah M. Malone

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are:

1. Transmittal Form (1 page);
2. Response to Requirement for Species Election (1 page); and
3. Return receipt postcard



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Alexandria, VA 22313-1450

RESPONSE TO REQUIREMENT FOR SPECIES ELECTION

This paper responds to an Office action mailed from the U.S. Patent and Trademark Office on December 12, 2005, in connection with the above-identified patent application.

The Examiner has required the Applicants to elect one of three perceived patentably distinct species of the claimed apparatus described in paragraphs 17 (*Group I*), 18 (*Group II*), and 19 (*Group III*) of the specification, respectively.

In addition, the Examiner has identified the following groups of perceived patentably distinct species of the claimed invention:

- Species (A-C) of the claimed apparatus employing the FAIMS for breath analysis, differentiated by the features of the patient providing the sample (as recited in claims 15-17).
- Species (D-G) of the claimed apparatus, differentiated by the kinds of information carried by the ions sensed by the ion detector (as recited in claims 18-21); and
- Species (H-I) of the data collector (as recited in claims 26-27).

Applicants hereby elect, with traverse, the species of **Groups I**. Further, in the event no generic claim is ultimately held to be allowable, Applicants hereby elect, with traverse, the species **A, G, and I**.

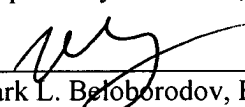
Claims readable on the elected species include **claims 1-15, 21-25, and 27-28**. Applicants respectfully traverse the species election requirement insofar as a search for publications relating to any of the species would reveal publications relating to any of the other species and, thus, would not impose a serious burden on the Examiner. Accordingly, Applicants respectfully request that the species election be withdrawn. Applicants reserve the right to pursue claims readable on any of the non-elected species in one or more related applications if the species election requirements are maintained.

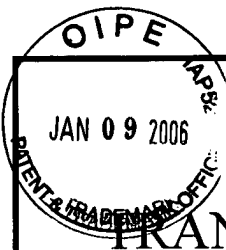
Applicants respectfully request that the application now proceed promptly to examination. Applicants believe that no additional fees are necessitated by the present Response. However, in the event that any additional fees are due, the Commissioner is hereby authorized to charge any such fees to Deposit Account No. 07-1700.

Respectfully submitted,

Date: January 5, 2006

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TRANSMITTAL FORM

Application Serial Number	10/817,455
Filing Date	April 1, 2004
First Named Inventor	Davis
Group Art Unit	3736
Examiner Name	Mallari, Patricia C.
Attorney Docket No.	DPL-048
Patent No.	Not applicable
Issue Date	Not applicable

ENCLOSURES (check all that apply)

- | | | |
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| <input type="checkbox"/> Fee Transmittal Form

<input type="checkbox"/> Check Attached
<input type="checkbox"/> Copy of Fee Transmittal Form

<input type="checkbox"/> Amendment/Response

<input type="checkbox"/> Preliminary
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____]

<input type="checkbox"/> Petition for Extension of Time

<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Form PTO-1449
<input type="checkbox"/> Copies of IDS Citations

<input type="checkbox"/> Certified Copy of Priority Document(s)

<input type="checkbox"/> Sequence Listing submission
<input type="checkbox"/> Paper Copy/CD
<input type="checkbox"/> Computer Readable Copy
<input type="checkbox"/> Statement verifying identity of above | <input type="checkbox"/> Copy of Notice to File Missing Parts of Nonprovisional Application

<input type="checkbox"/> Formal Drawing(s)

<input type="checkbox"/> Request For Continued Examination (RCE) Transmittal

<input type="checkbox"/> Power of Attorney (Revocation of Prior Powers)

<input type="checkbox"/> Terminal Disclaimer

<input type="checkbox"/> Copy of Executed Declaration and Power of Attorney for Utility or Design Patent Application

<input type="checkbox"/> Small Entity Statement

<input type="checkbox"/> CD(s) for large table or computer program

<input type="checkbox"/> Amendment After Allowance

<input type="checkbox"/> Request for Certificate of Correction
<input type="checkbox"/> Certificate of Correction (in duplicate) | <input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences

<input type="checkbox"/> Appeal Brief (in triplicate)

<input type="checkbox"/> Status Inquiry

<input checked="" type="checkbox"/> Return Receipt Postcard

<input checked="" type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8

<input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8


<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below)

- Response to Requirement for Species Election |
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CORRESPONDENCE ADDRESS

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SIGNATURE BLOCK

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